

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



March 10, 2004

Agenda ID #3332
Ratesetting

TO: PARTIES OF RECORD IN APPLICATION 01-09-012

This is the draft decision of Administrative Law Judge (ALJ) Bushey. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

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Attachment

Decision **DRAFT DECISION OF ALJ BUSHEY (Mailed 3/10/2004)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the City of San Diego for an order authorizing modification of an existing at-grade crossing on three light rail vehicle tracks and one heavy rail track of the Metropolitan Transit Development Board, and one heavy rail track of the Burlington Northern and Santa Fe Railway Company, at Park Boulevard, in the City of San Diego, San Diego County, California.

Application 01-09-012
(Filed September 12, 2001)

DECISION CORRECTING ERRORS IN D.03-12-018**1. Summary**

This decision removes two erroneous citations in Decision (D.) 03-12-018.

2. Background

In D.03-12-018, the Commission granted the City of San Diego (the City) authorization to (1) close an existing at-grade railroad crossing at Eighth Avenue and Harbor Drive and (2) construct an at-grade railroad crossing at the new intersection of Park Boulevard and Harbor Drive in San Diego, California. Due to the high level of light rail traffic and the presence of heavy rail traffic, we also imposed significant safety conditions, comprehensive monitoring, and long-term safety planning.

One safety requirement is quad gates, which control traffic on lanes entering and exiting a crossing. In Ordering Paragraph (OP) 2, we directed the City to comply with General Order (GO) 75-C and Resolution SX-41. However,

the resolution has not been adopted by the Commission and, therefore, the citation to the resolution should not been included in the decision. Rail Safety and Carrier Division staff (RCES) noted this error in their comments on the proposed decision. Because GO 75-C, Section 6.71 contains the needed specifications for quad gates, we can remove the erroneous citation and rely solely on GO 75-C.

In OP 4, we ordered the City to submit its safety proposals as required by GO 88. That GO, however, applies to modifications to existing crossings only, and not new crossings, such as Harbor Drive. The purpose of the filing requirement in OP 4 was to facilitate collaboration between the City and our staff on the final plans for all safety features at the crossing. The compliance filing required by OP 8, and the meet and confer requirement imposed in OP 7, will achieve the purpose of the GO 88 process. Therefore, we can delete the erroneous citation without affecting the outcome of the decision. RCES also brought this error to our attention.

3. Discussion

The Commission is authorized to modify its decisions, with notice to the parties, as provided in Public Utilities Code Section 1708. Good cause has been shown to make the modifications as discussed above and we will do so.

4. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Maribeth A. Bushey is the assigned Administrative Law Judge in this proceeding.

5. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice

and Procedure. Comments were filed on _____, and reply comments were filed on _____.

Findings of Fact

1. D.03-12-018 contains two erroneous citations that can be removed without changing the outcome of the decision.
2. GO 75-C, Section 6.71, specifies the components of a quad gate system.
3. The meet and confer and compliance filing requirements in OPs 7 and 8 achieve the purposes of a filing pursuant to GO 88.

Conclusion of Law

D.03-12-018 should be corrected to remove two erroneous citations that do not change the outcome of the decision.

O R D E R

Therefore, **IT IS ORDERED** that:

1. Ordering Paragraphs 2 and 4 of Decision (D.) 03-12-018 shall be modified by deleting the text as indicated below:
 2. The Park Boulevard crossing shall be fitted with four quadrant gates including a vehicle detection system as specified in General Order 75-C and the Commission's Resolution SX 41, Guidelines for the Use of Four Quadrant Gates.
 4. The Park Boulevard crossing shall include interconnected traffic signals and presignals at nearby intersections, which shall be preempted by the railroad warning devices. The City shall submit its plans for approval by Staff pursuant to General Order 88.

2. In all other respects, D.03-12-018 shall remain unchanged.
3. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.